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SENATE BILL 1044

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Lynda M. Lovejoy

AN ACT

RELATING TO EDUCATION; CLARIFYING THE DUTIES OF THE PUBLIC  
EDUCATION DEPARTMENT TO CONSULT WITH INDIAN TRIBES; CHANGING  
THE COMPOSITION OF THE INDIAN EDUCATION ADVISORY COUNCIL;  
AMENDING THE INDIAN EDUCATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Indian Education Act is  
enacted to read:

"[NEW MATERIAL] POST-SECONDARY EDUCATION.--The department  
shall collaborate and coordinate efforts with the higher  
education department and institutions of higher education,  
including tribal colleges and teacher education institutions  
and tribal education departments, to facilitate the successful  
and seamless transition of American Indian students into post-  
secondary education and training."

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1           Section 2. Section 22-23A-3 NMSA 1978 (being Laws 2003,  
2 Chapter 151, Section 3) is amended to read:

3           "22-23A-3. [~~DEFINITION~~] DEFINITIONS.--As used in the  
4 Indian Education Act:

5           A. "assistant secretary" means the assistant  
6 secretary for Indian education;

7           B. "government-to-government" means the  
8 relationship between a tribal and a state government;

9           C. "indigenous" means native or tribal groups of  
10 the Americas that maintain a cultural identity separate from  
11 the surrounding dominant cultures;

12           D. "tribal" means pertaining to an Indian nation,  
13 tribe or pueblo located within New Mexico;

14           E. "tribe" means an Indian nation, tribe or pueblo  
15 located within New Mexico; and

16           F. "urban Indian" means a tribal member who lives  
17 in an off-reservation urban area."

18           Section 3. Section 22-23A-4 NMSA 1978 (being Laws 2003,  
19 Chapter 151, Section 4) is amended to read:

20           "22-23A-4. [~~STATE BOARD--TRIBES~~] RULEMAKING.--[~~The state~~  
21 ~~board, in consultation with tribes, may adopt and promulgate~~  
22 ~~rules to implement the provisions of the Indian Education Act.~~]

23           A. The secretary shall ensure that the duties  
24 prescribed in the Indian Education Act are carried out and that  
25 each division within the department is collaborating to fulfill

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1 its responsibilities to tribal students.

2 B. The secretary shall consult on proposed rules  
3 implementing the Indian Education Act with the Indian education  
4 advisory council and shall present rules for review and comment  
5 at the next semiannual government-to-government meeting  
6 pursuant to Section 22-23A-5 NMSA 1978."

7 Section 4. Section 22-23A-5 NMSA 1978 (being Laws 2003,  
8 Chapter 151, Section 5, as amended) is amended to read:

9 "22-23A-5. INDIAN EDUCATION DIVISION--CREATED--ASSISTANT  
10 [~~SUPERINTENDENT~~] SECRETARY--DUTIES.--

11 A. The "Indian education division" is created  
12 within the department. The secretary shall appoint an  
13 assistant secretary for Indian education, who shall direct the  
14 activities of the division and advise the secretary on  
15 development of policy regarding the education of tribal  
16 students. The assistant secretary shall also coordinate  
17 transition efforts for tribal students in public schools with  
18 the higher education department.

19 B. The assistant secretary shall coordinate with  
20 appropriate administrators and divisions to ensure that  
21 department administrators make implementation of the Indian  
22 Education Act a priority.

23 C. The secretary and the assistant secretary, in  
24 cooperation with the Indian education advisory council, shall  
25 collaborate with state and federal departments and agencies and

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1 tribal governments to identify ways such entities can assist  
2 the department in the implementation of the Indian Education  
3 Act.

4 D. The secretary and assistant secretary shall  
5 convene semiannual government-to-government meetings for the  
6 express purpose of receiving tribal input on education of  
7 tribal students.

8 ~~[B.]~~ E. In accordance with the rules of the  
9 department and after consulting with the Indian education  
10 advisory council and determining the resources available within  
11 the department, the ~~[Indian education division]~~ assistant  
12 secretary shall:

13 (1) provide assistance, including advice on  
14 allocation of resources, to school districts and tribes to  
15 improve services to meet the educational needs of ~~[American~~  
16 ~~Indian]~~ tribal students based on current published indigenous  
17 best practices in education;

18 (2) provide assistance to school districts and  
19 tribes in the planning, development, implementation and  
20 evaluation of curricula in native languages, culture and  
21 history designed for ~~[American Indian]~~ tribal and nontribal  
22 students as approved by tribes;

23 (3) develop or select for implementation a  
24 challenging, sequential, culturally relevant curriculum to  
25 provide instruction to ~~[American Indian]~~ tribal students in

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1 [kindergarten] pre-kindergarten through sixth grade to prepare  
2 them for pre-advanced placement and advanced placement  
3 coursework in grades seven through twelve;

4 (4) provide assistance to school districts and  
5 tribes to develop curricula and instructional materials in  
6 native languages, culture and history in conjunction and by  
7 contract with native language practitioners and tribal elders,  
8 unless the use of written language is expressly prohibited by  
9 the tribe;

10 (5) conduct indigenous research and evaluation  
11 for effective curricula for tribal students;

12 (6) collaborate with the department to provide  
13 distance learning for tribal students in public schools to the  
14 maximum limits of the department's abilities;

15 [~~5~~] (7) establish, support and maintain an  
16 Indian education advisory council;

17 [~~6~~ by January 2006] (8) enter into  
18 agreements with each tribe or authorized tribal educational  
19 entity to share programmatic information and to coordinate  
20 technical assistance for public schools that serve [~~American~~  
21 ~~Indian~~] tribal students;

22 [~~7~~] (9) seek funds to establish and maintain  
23 an Indian education office in the northwest corner of the state  
24 or other geographical location to implement agreements with  
25 each tribe or authorized tribal educational entity, monitor the

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1 progress of [~~American Indian~~] tribal students and coordinate  
2 technical assistance at the public pre-kindergarten to post-  
3 secondary schools that serve [~~American Indian~~] tribal students;

4 [~~(8)~~] (10) require school districts to obtain  
5 a signature of approval by the tribal governments or tribal  
6 government designees residing within school district  
7 boundaries, verifying that the tribes agree to Indian education  
8 policies and procedures pursuant to federal requirements;

9 [~~(9)~~] (11) seek funds to establish, develop  
10 and implement [~~the following~~] culturally relevant support  
11 services for the purposes of increasing the number of [~~American~~  
12 ~~Indian~~] tribal teachers, administrators and principals and  
13 providing continued professional development for educational  
14 assistants, teachers and principals serving [~~American Indian~~]  
15 tribal students, in conjunction with the Indian education  
16 advisory council:

17 (a) recruitment and retention of highly  
18 qualified teachers and administrators;

19 (b) academic transition programs;

20 (c) academic financial support;

21 (d) teacher preparation;

22 (e) teacher induction; and

23 (f) professional development;

24 [~~(10)~~] (12) develop curricula to provide  
25 instruction in tribal history and government and develop plans

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1 to implement these subjects into history and government courses  
2 in school districts throughout the state;

3 [~~(11)~~] (13) ensure that native language  
4 bilingual programs are part of a school district's professional  
5 development plan, as provided in Section 22-10A-19.1 NMSA 1978;  
6 and

7 [~~(12)~~] (14) develop a plan to establish a  
8 post-secondary investment system for [~~Indian~~] tribal students  
9 to which parents, tribes and the state may contribute."

10 Section 5. Section 22-23A-6 NMSA 1978 (being Laws 2003,  
11 Chapter 151, Section 6) is amended to read:

12 "22-23A-6. ADVISORY COUNCIL.--

13 A. The "Indian education advisory council" is  
14 created and shall [~~consist~~] advise the secretary and assistant  
15 secretary on implementation of the provisions of the Indian  
16 Education Act. The council consists of [~~fourteen~~] seventeen  
17 members as follows:

18 (1) four representatives from the Navajo  
19 Nation;

20 (2) two representatives, one from the  
21 Mescalero Apache Tribe and one from the Jicarilla Apache  
22 Nation;

23 (3) four representatives, two from the  
24 southern pueblos and two from the northern pueblos; [~~and~~]

25 (4) four [~~members~~] urban Indians representing

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1 urban areas, ~~[the]~~ including Albuquerque, Gallup and  
2 Farmington; and

3 (5) three at-large representatives, one from  
4 the federal bureau of Indian affairs, one from a head start  
5 [organizations] organization and one from the general public,  
6 at least one of whom shall be ~~[non-Indian]~~ nontribal, but all  
7 of whom shall have knowledge of and involvement in the  
8 education of ~~[Indian]~~ tribal students.

9 B. Members shall be appointed by the secretary with  
10 input from tribes for staggered terms so that the terms of the  
11 at-large members and of one-half of each of the tribal  
12 representatives and the urban Indian organization  
13 representatives end on December 31, 2009 and the terms of the  
14 remaining members end on December 31, 2011. Thereafter,  
15 appointments shall be for terms of four years. The terms of  
16 existing members shall expire on the effective date of this  
17 2007 act.

18 C. A majority of the members of the Indian  
19 education advisory council constitutes a quorum. The advisory  
20 council shall elect a chair from its membership.

21 ~~[B.]~~ D. On a semiannual basis, representatives from  
22 all tribes, members of the ~~[state board]~~ commission, the  
23 ~~[governor's]~~ office of the governor, the ~~[New Mexico office of]~~  
24 Indian affairs department, the legislature, the ~~[state~~  
25 ~~superintendent]~~ secretary, the assistant secretary and the

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1 Indian education advisory council shall meet to assist in  
2 evaluating, consolidating and coordinating all activities  
3 relating to the education of [~~American Indian~~] tribal students.

4 [~~G.~~] E. Members of the Indian education advisory  
5 council may receive per diem and mileage as provided for  
6 nonsalaried public officers in the Per Diem and Mileage Act."

7 Section 6. Section 22-23A-7 NMSA 1978 (being Laws 2003,  
8 Chapter 151, Section 7) is amended to read:

9 "22-23A-7. REPORT.--

10 A. The Indian education division in collaboration  
11 with the education division of the federal bureau of Indian  
12 affairs and other entities that serve [~~American Indian~~] tribal  
13 students shall submit an annual statewide [~~American Indian~~]  
14 tribal education status report no later than November 15 to all  
15 tribes. The division shall submit the report whether or not  
16 entities outside state government collaborate as requested.

17 B. A school district with tribal lands located  
18 within its boundaries shall provide a districtwide [~~American~~  
19 ~~Indian~~] tribal education status report to all tribes  
20 represented within the school district boundaries.

21 C. The status reports shall be written in a brief  
22 format and shall include the following information, through  
23 which public school performance is measured and reported to the  
24 tribes and disseminated at the semiannual government-to-  
25 government meetings held pursuant to Section 22-23A-5 NMSA

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1 1978:

- 2 (1) student achievement as measured by a  
3 statewide test approved by the [~~state board~~] department, with  
4 results disaggregated by ethnicity;
- 5 (2) school safety;
- 6 (3) the [~~dropout~~] graduation rate;
- 7 (4) attendance;
- 8 (5) parent and community involvement;
- 9 (6) educational programs targeting [~~American~~  
10 ~~Indian~~] tribal students;
- 11 (7) financial reports;
- 12 (8) current status of federal Indian education  
13 policies and procedures;
- 14 (9) school district initiatives to decrease  
15 the number of student dropouts and increase attendance;
- 16 (10) public school use of variable school  
17 calendars; [~~and~~]
- 18 (11) school district consultations with  
19 [~~parent advisory committees~~] district Indian education  
20 committees, school-site parent advisory councils and tribal,  
21 municipal and Indian organizations; and
- 22 (12) indigenous research and evaluation  
23 measures and results for effective curricula for tribal  
24 students."

25 Section 7. Section 22-23A-8 NMSA 1978 (being Laws 2003,

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1 Chapter 151, Section 8) is amended to read:

2 "22-23A-8. FUND CREATED.--

3 A. The "Indian education fund" is created in the  
4 state treasury. The fund consists of appropriations, gifts,  
5 grants and donations and income from investment of the fund.  
6 Money in the fund shall not revert [~~to any other fund at the~~  
7 ~~end of a fiscal year~~]. The fund shall be administered by the  
8 department [~~of education~~], and money in the fund is  
9 appropriated to the department to distribute awards to support  
10 the Indian Education Act.

11 B. The department shall ensure that funds  
12 appropriated from the Indian education fund shall be used for  
13 the purposes stated in the Indian Education Act and shall not  
14 be used to correct for previous reductions of program services.

15 [~~B.~~] C. The department [~~of education~~] shall develop  
16 procedures and rules for the award of money from the fund.  
17 Disbursement of the fund shall be made by warrant of the  
18 department of finance and administration pursuant to vouchers  
19 signed by the [~~state superintendent~~] secretary of public  
20 education."